IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.2588 of 2006

Date of Decision: 19.03.2007

Bhagwan Parsu Ram Ashram Sewa Samiti ..Petitioner

Vs.

Vipan Bhambhri & Ors. ..Respondents

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.Anil Malik, Advocate,
for the petitioner.

Mr.Vijay Pal Singh, Advocate,
for respondent No.1.

Vinod K.Sharma,J. (Oral)

By way of present revision petition challenge is to the order passed by the learned Trial Court dismissing the application moved by the petitioner under Order 7 Rule 11 of the Code of Civil Procedure (for short the Code) for rejection of the plaint on the ground of territorial jurisdiction.

The application moved by the petitioner was rejected by the learned Trial Court by observing that in order to decide the application under Order 7 Rule 11 of the Code, the Court is to see the plaint as it is and in case the said plaint does not disclose the cause of action or the

jurisdiction of the court is barred, then application can be allowed.

The reading of the plaint shows that the plaintiff had made a positive assertion that money for becoming member of the petitioner Samiti was deposited by the plaintiff at Rohtak. It is further asserted in the plaint that the plaintiff-respondent became life member of the Samiti at Rohtak. This assertion has been challenged by the petitioner-defendant primarily on the plea that office of the petitioner Samiti is at Gohana an therefore, it was not open to the plaintiff-respondent to have filed a suit at Rohtak.

The learned Trial Court rightly rejected the application moved by the petitioner by observing that the plaint as drafted clearly shows that part of the cause of action has arisen at Rohtak. The defence of the petitioner could not be seen at this stage. There is no error in this finding which may call for interference by this Court.

Dismissed.

However, it is made clear that it would be open to the petitioner to prove by producing evidence that the assertion made by the plaintiff for invoking the jurisdiction at Rohtak Court was based on wrong facts and the learned Trial Court would decide the issue in accordance with law by framing an issue in this regard.

March 19,2007 **(Vinod K.Sharma)**
rp **Judge**